



**APPROVED MINUTES  
CITY OF SCOTTSDALE  
CHARTER REVIEW TASK FORCE**

**MONDAY, DECEMBER 7, 2009**

**CITY HALL KIVA  
3939 N. DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA 85351**

**PRESENT:** Steven J. Twist, Chair  
Jim Derouin  
Cindi Eberhardt  
Alan Kaufman  
Charlie Smith  
Lisa Johnson Stone

**ABSENT:** Susan Bitter Smith

**STAFF:** Carolyn Jagger, City Clerk  
Sherry Scott, Deputy City Attorney  
Sharron Walker, City Auditor  
Brent Stockwell, Senior Advisor

**Call to Order/Roll Call**

Chairman Twist called the Charter Review Task Force regular meeting to order at 5:10 p.m. Roll call confirmed the presence of Task Force members as noted.

**1. Approval of Minutes from November 30, 2009**

**MOTION AND VOTE**

**LISA JOHNSON STONE MOVED APPROVAL OF THE NOVEMBER 30, 2009 CHARTER REVIEW TASK FORCE MINUTES. CINDI EBERHARDT SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

**2. Public Comment**

None noted.

**3. Discussion and possible action regarding recommendations to the City Council regarding possible amendments to the Scottsdale City Charter**

- a. Discuss possible recommendations for amendments to Article 2, Section 17 relating to the Council's Interactions with and Discussions about City Employees, and other related sections.

Chair Twist presented the proposed amendments to Article 2, Section 17 for the Task Force's consideration.

Charlie Smith asked for clarification regarding the last paragraph. Chair Twist indicated the language is included to apply the concept of allowing the City Council to express its views, and fully and freely discuss appointment and removal of City employees with all City officers, rather than just the City Manager. Deputy City Attorney Sherry Scott suggested alternative language for the item.

Chair Twist discussed Section 17(D), and inquired about the limits of the City Council's ability to control City affairs. Ms. Scott explained that the Charter currently prohibits the City Council from discussing and taking action on a specific employee. Chair Twist discussed the budget process in relation to employees. Ms. Scott stated there is a distinction between budgeted positions and the individuals that are assigned to those positions.

In response to an inquiry by Cindi Eberhardt, Ms. Scott indicated from a policy standpoint, the City Council could discuss reorganizing, diminishing, and eliminating positions, as long as it does not pertain to an individual employee.

The Task Force discussed Article 2, Section 17, and possible alternative language.

**MOTION AND VOTE**

**CHARLIE SMITH MOVED THAT THE TASK FORCE RECOMMEND TO THE COUNCIL THAT ARTICLE 2, SECTION 17 BE AMENDED AS SHOWN. ALAN KAUFMAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0)**

**~~"Sec. 17. Interference in administrative service. APPOINTMENTS, REMOVALS, AND INTERACTIONS WITH CITY EMPLOYEES~~**

- A. Neither the council nor any of its members shall ~~direct~~ CONTROL or ~~request~~ DEMAND the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of CITY EMPLOYEES SUBJECT TO THE DIRECTION AND SUPERVISION OF ANY OFFICER OF THE CITY ~~officers and employees in the administrative service of the city.~~**
- B. ~~Except for the purpose of inquiry,~~ The council and its members shall deal MAY INTERACT with SUCH EMPLOYEES ~~the administrative service solely through the city manager, and~~ FOR THE PURPOSE OF INQUIRIES. HOWEVER, neither the council nor any member thereof shall give orders to any ~~subordinates of the city manager~~ SUCH EMPLOYEE, either publicly or privately.**

**C. THIS SECTION DOES NOT APPLY TO CITY EMPLOYEES WHOSE PRIMARY DUTY IS TO DIRECTLY SERVE THE MAYOR OR MEMBERS OF THE COUNCIL.**

~~Nothing in this section shall be construed, however, as prohibiting the council, while in open sessions from fully and freely discussing with or suggesting to the city manager~~ **AT A PUBLIC MEETING, MAY EXPRESS ITS VIEWS AND FULLY AND FREELY DISCUSS WITH ANY OFFICER OF THE CITY anything pertaining to city affairs or the interests of the city."**

- b. Discuss possible recommendations for amendments to Article 6 relating to Finance and Taxation.

Brent Stockwell gave an overview of the proposed amendments to Article 6, indicating changes have been recommended by the City Treasurer to clarify the language and make it consistent with amendments already made to Article 3 by the Task Force. Changes regarding providing additional flexibility to posting public notices have been included. Deletions have been made to Sections 5 and 6 relating to state law changes. Section 12 seems to be out of date, and the Task Force should consider deleting it. Changes have been proposed to Section 14 regarding financial reporting requirements. The City Auditor has made some suggested changes regarding the independent annual audit, in order to conform to generally accepted government auditing standards and best practices.

The Task Force discussed how the proposed changes to Section 3 relate to the changes previously made in Article 3.

Charlie Smith said he would not be interested in making the proposed changes, and expressed concern that the City Council has passed two ordinances and one job description that greatly expanded the role of the City Treasurer and minimized the role of the City Manager. This is inconsistent with other charter cities in the United States, and he stated he is opposed to altering the City Charter around something as fragile as the recent City reorganization. He stated he would consistently vote against everything that expands the City Treasurer's responsibilities and erodes the City Manager's.

Cindi Eberhardt expressed concern regarding putting so much detail into the Charter, when some of the changes have already been made to ordinances.

Chair Twist stated the proposed amendment to Section 3 would be a recognition of the Treasurer's role, and how the Charter might encourage collaboration between the City Manager and City Treasurer.

**MOTION**

**LISA JOHNSON STONE MOVED THAT THE TASK FORCE RECOMMEND TO THE CITY COUNCIL THAT ARTICLE 6, SECTION 3 BE AMENDED AS SHOWN. ALAN KAUFMAN SECONDED THE MOTION.**

**"Sec. 3. Submission of RECOMMENDATIONS AND estimates to council;  
~~scope of city manager's estimate.~~**

**EACH YEAR, ~~On or before the second regular council meeting in May, of each year, or on such date in each year as shall be fixed~~ DETERMINED by**

the council, the city manager, ~~IN CONJUNCTION~~ AFTER CONSULTATION WITH THE CITY TREASURER, shall prepare and submit in writing to the council ~~the estimates of each department and his own personal report and recommendations FOR THE NEXT ENSUING FISCAL YEAR WITH, and estimateS OF THE CITY'S as to the probable expenditures of the city for the next ensuing fiscal year, stating the amount in detail required to meet all expenditures necessary for city purposes, including FUNDS REQUIRED TO SERVICE ANY interest and sinking funds, and outstanding indebtedness, if there be any; also an estimate of the amount of income expected from all sources in each department,; and the probable amount required to be raised by taxation to cover such expenditures, interest and sinking funds."~~

The Task Force discussed the roles of the City Manager and City Treasurer, and the requirements of their collaboration.

### VOTE

THE MOTION THAT THE TASK FORCE RECOMMEND TO THE CITY COUNCIL THAT ARTICLE 6, SECTION 3 BE AMENDED AS SHOWN PASSED BY A VOTE OF FOUR (4) TO TWO (2), WITH CINDI EBERHARDT AND CHARLIE SMITH DISSENTING.

### MOTION AND VOTE

CINDI EBERHARDT MOVED THAT THE TASK FORCE RECOMMEND TO THE CITY COUNCIL THAT ARTICLE 6, SECTION 2, 4, 5(A), AND 6 BE AMENDED AS SHOWN. ALAN KAUFMAN SECONDED THE MOTION, WHICH PASSED BY A VOTE OF SIX (6) TO ZERO (0).

**"Sec. 2. Council to provide for tax system; use of county services.**

The council may by ordinance provide a system for the assessment, levy and collection of all city taxes, not inconsistent with the provisions of this charter OR STATE LAW; provided, however, the council shall have power to avail itself of any law of this state, now or hereafter in force, and comply with the requirements thereof whereby assessments may be made by the assessor of the county in which the city is situated and taxes collected by the tax collector of said county for and in behalf of the city."

**"Sec. 4. Preparation and tentative adoption of a budget; publication of budget and notice of meeting to fix tax levies.**

The council shall meet annually prior to fixing the tax levy and make a budget of the estimated amounts required to pay the expenses of conducting the business of the city for the ensuing fiscal year. The budget shall be prepared in such detail as provided by law and, together with a notice that the council will meet for the purpose of making tax levies, in accordance with said budget, at the time and place set out in said notice, shall be published in the official newspaper of the city AS REQUIRED BY STATE LAW OR ORDINANCE. ~~once a week for at least two (2) consecutive weeks following the tentative adoption of such budget."~~

**"Sec. 5. Public hearing and adoption of budget.**

The council shall, at the first regular meeting in June and at the time and place designated in such notice, hold a public hearing at which any taxpayer may appear and be heard in favor of or against any proposed expenditure or tax levy. When such hearings shall have been concluded, the council shall finally determine and adopt estimates of proposed expenditures for the various purposes as set forth in the published proposal and such adopted estimates will constitute the budget for the next fiscal year.

~~(a) After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget. The council may not vary the titles, descriptions or conditions of administration specified in the budget. Before inserting any additional item or increasing any item of appropriation, it must cause to be published a notice at least once in the official newspaper of the city, setting forth the nature of the proposed increases and fixing a place and time, not less than five (5) days after publication, at which time the council will hold a public hearing thereon."~~

**"Sec. 6. Exceeding adopted budget.**

**Nothing in this article shall be construed to limit the power of the council to appear before the state tax commission or any other duly authorized state body for the purpose of requesting authorization to exceed the adopted budget for emergency or unanticipated municipal expenditures, AS PROVIDED BY STATE LAW."**

Ms. Scott discussed Section 12, indicating state law sets forth the notice of claim requirements and time requirements for actions against the City. She suggested Section 12 be deleted or amended to read, "as provided by state law." Brent Stockwell clarified that claims against the City are covered in Chapter 2, Article 4, Division 2 of the City Code.

Charlie Smith asked for clarification of the state law. Ms. Scott explained the time limitations are set forth by state law, and the City could possibly modify it to some extent by not putting a higher burden on the citizens; however, this area is preempted by state law.

The Task Force discussed requirements regarding the City paying claims.

### **MOTION**

**ALAN KAUFMAN MOVED TO STRIKE ARTICLE 6, SECTION 12 AND RENUMBER THE CHARTER FOR CONFORMITY. THE MOTION FAILED FOR LACK OF A SECOND.**

The Task Force reviewed possible language changes to Section 12.

### **MOTION AND VOTE**

**LISA JOHNSON STONE MOVED THAT THE TASK FORCE RECOMMEND TO THE CITY COUNCIL THAT ARTICLE 6, SECTION 12 BE AMENDED AS SHOWN. JIM DEROUIN SECONDED, AND THE MOTION PASSED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

**“Sec. 12. Claims or demands against the city.**

**THE TIME AND MANNER FOR MAKING NOTICE OF A CLAIM AGAINST THE CITY SHALL BE AS SET FORTH IN STATE LAW. The council shall prescribe by ordinance PROCEDURES RELATING TO THE AUDITING AND PAYMENT OF A CLAIM ~~the manner and limitations of time in which claims or demands against the city shall be presented, audited and paid.~~”**

City Auditor Sharron Walker presented the changes she has proposed to Article 6, Section 14, and discussed the reasons for the amendments.

### **MOTION AND VOTE**

**ALAN KAUFMAN MOVED THAT THE TASK FORCE RECOMMEND TO THE CITY COUNCIL THAT ARTICLE 6, SECTION 14 BE AMENDED AS SHOWN. JIM DEROUIN SECONDED. MOTION PASSED 6-0.**

**“Sec. 14. Independent Annual Audit.**

**Prior to the end of each fiscal year the council shall designate certified public accountants who, ~~as of the end of the fiscal year,~~ shall make PERFORM an independent audit of THE city’S government and shall submit ~~their report to the council and to the city manager~~ ANNUAL FINANCIAL STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS. THE CERTIFIED PUBLIC ACCOUNTANTS SHALL BE INDEPENDENT OF THE CITY GOVERNMENT, HAVING NO PERSONAL INTEREST, DIRECT OR INDIRECT, IN THE FISCAL AFFAIRS OF CITY GOVERNMENT OR ANY OF ITS OFFICERS. THE CERTIFIED PUBLIC ACCOUNTANTS SHALL SUBMIT THEIR REPORTS TO THE COUNCIL. All such audit reports shall be a matter of public record. ~~Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the city and any separate or subordinate accounts kept by any other office, department or agency of the city government.”~~**

Brent Stockwell discussed the proposed changes to Section 17.

Alan Kaufman expressed concern regarding the City’s current financial reporting practices. This fiscal year, the City Council has only received one report. In order for the Council to accomplish one of its principal purposes, dealing with the finances of the City, it should receive an accurate financial report every month. He strongly supports codifying language to this effect within the Charter. Alan Kaufman suggested proposed language for Section 17; the Task Force discussed his proposal and recommended changes.

### **MOTION AND VOTE**

**CINDI EBERHARDT MOVED THAT THE TASK FORCE RECOMMEND TO THE CITY COUNCIL THAT SECTION 17 BE ADDED TO ARTICLE 6 AS SHOWN. JIM DEROUIN**

**SECONDED THE MOTION, WHICH PASSED BY A UNANIMOUS VOTE OF SIX (6) TO ZERO (0).**

**“SEC 17. FINANCIAL REPORTING**

**THE CITY TREASURER SHALL ISSUE MONTHLY PUBLIC FINANCIAL STATEMENTS TO THE COUNCIL WITHIN 15 BUSINESS DAYS OF THE MONTH END. THE MONTHLY FINANCIAL STATEMENTS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE ACTUAL, BUDGETED, AND PRIOR YEAR COMPARISONS OF REVENUE AND EXPENDITURES OF EACH OFFICE, DIVISION AND DEPARTMENT, AND ANY ADDITIONAL INFORMATION REQUIRED BY ORDINANCE.”**

- c. Discuss possible recommendations for amendments to Article 7 relating to Ordinances and Resolutions.

Please note: Jim Derouin requested that discussion of proposed amendments adding a new Sec. 14 relating to Voter Approval for Certain Public Expenditures be continued to the January 11, 2010 meeting.

Brent Stockwell gave an overview of the proposed change to Article 7, Section 1, adding the term “or motion,” which would allow the Council to act by motion, resolution, or ordinance.

Jim Derouin asked for clarification regarding the significance of a resolution under Arizona law. Ms. Scott explained that since there is nothing in the Charter indicating when something should be done by ordinance or by resolution, an analysis is undertaken to determine whether it is a legislative action or more of an administrative act. Typically, resolutions are numbered, written, and recorded by the City Clerk just as an ordinance is; however, resolutions do not have to be published in the paper after adoption. State law does sporadically require the City to do things by resolution; for instance, General Plan amendments. Because the Charter currently only allows the Council to act by resolution or ordinance, in situations when the Council acts by motion, it is interpreted as a verbal resolution.

In response to an inquiry by Jim Derouin about motions, Ms. Scott explained the Council does pass ordinances and resolutions by motion; however, not every situation lends itself to a written ordinance or resolution. Motions are usually simply included in the minutes, but there are times when Council makes a motion directing staff to bring back a resolution.

The Task Force discussed the proposed amendment and its consequences should it be recommended for approval. City Clerk Carolyn Jagger indicated she does not envision the way Council does business changing because of this new language; it gives permission for the Council to act by motion, which they are already doing anyway.

Jim Derouin asked if there has been confusion regarding whether the ten items listed in Section 1 should be adopted by ordinance. Ms. Scott clarified that these ten items came from the model code. Staff did not independently create the list, it simply provided the list as an example for the Task Force.

**MOTION AND VOTE**

**JIM DEROUIN MOVED THAT THE TASK FORCE RECOMMEND TO THE CITY COUNCIL THAT ARTICLE 7, SECTION 1 BE AMENDED AS SHOWN. CINDI EBERHARDT SECONDED THE MOTION, WHICH PASSED BY A UNANIMOUS VOTE OF SIX (6) TO ZERO (0).**



**“Sec. 1. Council to act by resolution~~or~~, ordinance, OR MOTION.**

**The council shall act by resolution, ~~or~~ ordinance or MOTION.**

**IN ADDITION TO OTHER ACTS REQUIRED BY LAW OR BY SPECIFIC PROVISION OF THIS CHARTER TO BE DONE BY ORDINANCE, ACTS OF THE COUNCIL SHALL BE BY ORDINANCE IF THEY:**

- (1) ADOPT OR AMEND AN ADMINISTRATIVE CODE OR ESTABLISH, ALTER, OR ABOLISH ANY CITY DEPARTMENT, OFFICE, OR AGENCY;**
- (2) PROVIDE FOR A FINE OR OTHER PENALTY OR ESTABLISH A RULE OR REGULATION FOR VIOLATION OF WHICH A FINE OR OTHER PENALTY IS IMPOSED;**
- (3) LEVY TAXES;**
- (4) GRANT, RENEW, OR EXTEND A FRANCHISE;**
- (5) REGULATE THE RATE CHARGED FOR ITS SERVICES BY A PUBLIC UTILITY;**
- (6) AUTHORIZE THE BORROWING OF MONEY;**
- (7) CONVEY OR LEASE OR AUTHORIZE THE CONVEYANCE OR LEASE OF ANY LANDS OF THE CITY;**
- (8) REGULATE LAND USE AND DEVELOPMENT;**
- (9) AMEND OR REPEAL ANY ORDINANCE PREVIOUSLY ADOPTED; OR**
- (10) ADOPT, WITH OR WITHOUT AMENDMENT, ORDINANCES PROPOSED UNDER THE INITIATIVE POWER.”**

Alan Kaufman discussed Section 5, referencing the State Constitution and its use of the word “measures.” He stated he does not want to see that word taken out of the City Charter.

Jim Derouin suggested that the word “or” be placed in front of the word “State” in the last line of Section 3.

In regard to Section 8, Brent Stockwell explained that the proposed time limit changes were included to be more consistent with state law.

Chair Twist expressed concern regarding removing the requirement to publish any ordinance within ten days of its passage. Alan Kaufman suggested the Charter read that the ordinances would be made publicly available to the maximum extent possible.

Chair Twist said the Charter should continue to impose an obligation on the City to make its ordinances public. He asked staff to re-include that concept in Section 8. Ms. Scott indicated that A.R.S. 9-812 provides that notices of election, invitation for bids, noticing of letting contracts, laws and ordinances, and other notices of a public character issued by authority of the governing body shall be published as provided by 39-204.

The Task Force agreed that consideration of additional amendments to Article 7 would be discussed at the December 14, 2009 meeting.



d. Discuss possible recommendations for amendments to Article 8 relating to Contracts.

THIS ITEM WAS CONTINUED TO THE DECEMBER 14, 2009 MEETING

**4. Review, discuss, and possibly amend draft agenda for the December 14, 2009 meeting**

The Task Force agreed that topics at the next meeting would include completing amendments to Article 7, continuing with Articles 8 and 9.

Jim Derouin requested staff prepare background research relating to the impacts of proposed subsidy language, and asked that content experts be invited to present and respond to questions when the topic is discussed on January 11, 2010.

**Adjournment**

With no further business to discuss, the meeting adjourned at 7:57 p.m.

Respectfully submitted,  
A/V Tronics, Inc. DBA AVTranz.

Reviewed by  
Brent Stockwell, Senior Advisor

Officially approved by the Charter Review Task Force on Monday, December 14, 2009.